

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

OBM, INC. 4:23-CV-01798

VS. HOUSTON, TEXAS

LANCIUM LLC SEPTEMBER 14, 2023

TRANSCRIPT OF MOTION HEARING PROCEEDINGS
HEARD BEFORE THE HONORABLE KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF:

MR. RODNEY R. MILLER
MR. PRESTON H. HEARD
Womble Bond Dickinson (US) LLP
271 17th Street, NW
Suite 2400
Atlanta, Georgia 30363

MR. JAMES E. DORITY
Womble Bond Dickinson (US) LLP
550 South Main Street
Suite 400
Greenville, SC 29601

MR. ANDREW BEVERINA
Womble Bond Dickinson (US) LLP
2001 K Street NW
Suite 400 South
Washington, DC 20006

Proceedings recorded by mechanical stenography,
transcript produced via computer.

1 FOR THE DEFENDANT:

MR. CRAIG D. LEAVELL
MR. BRUCE H. RATAIN
Barnes & Thornburg LLP
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606-2833

5 MR. DANIEL ANTHONY VALENZUELA
Barnes & Thornburg LLP
2121 North Pearl Street
Suite 700
7 Dallas, Texas 75201

9 Official Court Reporter:

Lanie M. Smith, CSR, RMR, CRR
Official Court Reporter
United States District Court
Southern District of Texas
515 Rusk
Room 8004
Houston, Texas 77002

1 P R O C E E D I N G S

2 THE COURT: Good afternoon and welcome. We're on the
3 record in OBM versus Lancium. This is Keith Ellison.

4 We'll take appearances of counsel beginning with
5 OBM, please.

03:30PM

6 MR. MILLER: Thank you, Your Honor. Good afternoon,
7 Your Honor. This is Rodney Miller of Womble Bond Dickinson on
8 behalf of OBM, and I also have on the line Preston Heard,
9 James Dority and Andrew Beverina.

03:31PM

10 THE COURT: Welcome to all of you.

11 For defendant?

12 MR. VALENZUELA: Good afternoon, Your Honor. This is
13 Daniel Valenzuela with Barnes & Thornburg and with me on the
14 line will be Craig Leavell and also Bruce Ratain from
15 Barnes & Thornburg as well.

03:31PM

16 THE COURT: Welcome to all of you, too.

17 Okay. We're here on defendant's motion to
18 dismiss. You can assume I've read the papers.

19 Would you like to add to what's in the papers on
20 your motion to dismiss?

03:31PM

21 MR. LEAVELL: Your Honor, on behalf of Lancium, we're
22 happy to answer any questions. I'll briefly step through a
23 couple of key points if you don't mind.

24 THE COURT: That's fine.

03:31PM

25 MR. LEAVELL: Great.

1 Well, first of all, as it's clear and OBM doesn't
2 dispute, it is OBM's burden to establish that there's
3 declaratory judgment or subject matter jurisdiction for their
4 complaint; and the standard, we agree, is set forth in the
5 *MedImmune* case, which requires a substantial controversy of
6 sufficient immediacy and reality to warrant the Court's
7 involvement for a declaratory judgment. And that analysis has
8 to be based on objective facts, not subjective fears by an
9 unreasonable declaratory judgment.

10 And here, based on OBM's papers, if their fear
11 was, in fact, genuine, it was entirely unreasonable under the
12 entirety of the circumstances. There was no allegation of
13 infringement of any particular patent, much less the patent at
14 issue and there was absolutely no threat of litigation at all,
15 much less an immediate or imminent threat of litigation.

16 There is one letter in which Lancium discussed
17 its patents, but there are a lot of reasons for patent owners
18 to be proud of their patents, to promote their patents; and if
19 you're a small company like Lancium that's looking to secure
20 lucrative collaborative arrangements with other small
21 companies, patents are important. They're an indication that
22 you're an innovative company and that you're worthy of
23 collaborating with.

24 And the letter that Lancium sent on its face very
25 clearly talks about the desire to continue the collaboration

1 that the parties have been discussing for at least 18 months,
2 if not two years at that point.

3 And the objective contemporaneous documents --
4 and there's a lot of e-mails and a lot of text messages
03:33PM 5 submitted by both sides -- show honest interest in a
6 collaborative effort between the parties to make money and
7 there was money to be made, a lot more money than is going to
8 be made through a lawsuit and especially once lawyers' fees and
9 litigation is involved.

03:34PM 10 Simply put, Lancium was only interested in a
11 collaborative agreement where the parties could make money and
12 right up to the day -- two days before the lawsuit was filed
13 and the week, the two weeks leading up to the lawsuit, which
14 was filed by surprise, even OBM's CEO, Mr. Lawrence admits in
03:34PM 15 his declaration that he was agreeing to meetings, he was
16 promising to get back and to have deliverables such as
17 nondisclosure agreements to continue the business discussions
18 and he was encouraging Lancium to continue to explore a
19 business relationship. And those communications were taking
03:34PM 20 place right up to two days before the lawsuit was filed.

21 And there's case law we cite in our brief, the
22 *Communications Test Design* case, and there are others, that
23 make it very clear that you can't pretend to be continuing
24 business discussions. You can't be promising to meet to
03:35PM 25 further those discussions and promising to deliver further

1 information in furtherance of that collaboration and then file
2 a DJ complaint and pull the rug out from under those
3 discussions.

4 There are cases that -- where the declaratory
03:35PM 5 judgment plaintiff argued and the court found that those
6 discussions were futile and there was no further need for any
7 discussions. But the cases are clear and the cases cited by
8 OBM are in the context of ongoing licensing or settlement
9 discussions.

03:35PM 10 It's true that if two parties are talking about
11 infringement with clear allegations of infringement and they've
12 been negotiating over a license agreement for months or weeks
13 or a settlement terms for that patent infringement allegation,
14 then, yes, of course at some point if those discussions become
03:36PM 15 futile, then either party is entitled to run in to court and
16 seek the Court's assistance; however, that's not what was going
17 on here.

18 The parties' own documents show they were not
19 talking about license agreements or settlement agreements.
03:36PM 20 Those were never discussed. They were talking about a business
21 proposal. And those business discussions were not futile, they
22 were ongoing the week before the lawsuit was filed. The
23 parties were talking about their weekends and what they did.
24 They were talking about excitement over the opportunity. And
03:36PM 25 even Lancium's or OBM's own CEO says that the type of

1 arrangement that was being discussed would not cause him any
2 indigestion.

3 Those are the contemporaneous objective facts
4 that are shown by the documents themselves that have been put
03:37PM 5 into the record. And even the declarations by Mr. Lawrence
6 admit that he was in discussions and was encouraging further
7 discussions right up to the days before the lawsuit was filed.

8 THE COURT: Okay. Thank you very much.

9 Let me hear from the other side.

03:37PM 10 MR. MILLER: Good afternoon again, Your Honor.
11 Rodney Miller here on behalf of OBM.

12 As stated in OBM's declaratory judgment action
13 and also reiterated multiple times in our briefing, Lancium is,
14 to us, mischaracterizing the business -- alleged business --
03:37PM 15 ongoing business discussions that they're alleging took place
16 between the parties. And based on -- I'm going through the --
17 based on the objective factors that I'm going to discuss and
18 the totality of circumstances, it is truly our position that we
19 are at a crossroads and we need some type of resolution from
03:38PM 20 the Court in order for our client to safely move forward
21 with --

22 THE COURT: What points have you not reached resolution
23 or reached some kind of comfort?

24 MR. MILLER: So in November -- that's one of the issues
03:38PM 25 that we have going on. November the 12th, Mr. Lawrence, he

1 provided a declaration and he's adamant that Lancium -- during
2 the discussions, Lancium stated that his customers could be
3 infringing the Lancium patents. And that was the true start of
4 what -- the back-and-forth between the two parties.

03:39PM 5 And after that -- after that conversation,
6 Mr. Lawrence immediately called his counsel, he called his
7 attorneys. He called us over at Womble. And after that,
8 Mr. Lawrence, as discussed in his declaration, was having
9 conversations with Lancium. But in those conversations, he was
03:39PM 10 basically trying to prevent what we have going on right now.

11 And what happened? After Lancium -- Lancium
12 reached out to him multiple times and for two or three
13 different occasions, Mr. Lawrence did not respond and on
14 April the 3rd, he then receives a letter -- a letter not from a
03:40PM 15 lawyer who wants to discuss business terms, not from some
16 corporate attorney, he receives a letter from litigation
17 counsel -- IP litigation counsel.

18 And in that letter, they identify the Foreman
19 software, my client's product; they say that that product could
03:40PM 20 relate to Lancium's patents; and then they include in an
21 attachment the patent.

22 And in our briefing on top of -- due to prior
23 conversations, in our briefing we just wanted to point the
24 judge back to *Hewlett-Packard versus Acceleron*.

03:40PM 25 What's very interesting in that letter -- the

1 attorneys were really great at drafting the letter and not
2 using certain magic words or specifically stating, hey, you
3 infringed, but they do present -- again, present the patent;
4 they compare the patent to the product.

03:41PM 5 And what happens next? My client is worried, as
6 stated in his declaration, he doesn't know what's going to
7 happen next. So what does he do? He reaches out to Lancium.
8 Per the instructions in the letter, he reaches out to Lancium
9 to try to discuss some type of business deal. And in those
03:41PM 10 discussions, Lancium proposed terms and in those terms that
11 they proposed were from him -- they were unreasonable terms
12 because those terms would have prevented him from practicing in
13 the field that he wanted to practice in.

14 And that's where we are, Your Honor. We have --
03:41PM 15 Lancium, they do a really good job of discussing or talking
16 about the small communications or the fact that my client tries
17 to be friendly and tries to be respectful, they somehow use
18 that as a way of ignoring the severity of what's going on,
19 ignoring the fact that their client has a history of suing
03:42PM 20 other companies as it relates to this patent; ignoring the fact
21 that they did, in fact, tell my client that his customers who
22 were using Foreman could be infringing; the fact that based
23 even on their briefing, that they have this belief that their
24 patent somehow covers this broad range of ERCOT Demand Response
03:42PM 25 CLR function standards that have been going on in Texas for a

1 number of years. And they somehow, even through conversations
2 with my client, they've had a history of trying to corner that
3 market. So --

4 THE COURT: Let's go through your individual
5 allegations.

6 You made the point that Lancium has filed two
7 infringement lawsuits against software companies, but hadn't it
8 been made clear in the cases that -- that prior lawsuits is not
9 generally one of the more telling indicia of a need for
10 declaratory judgment suit? I think I have one case I'm
11 familiar with where I held that.

12 MR. MILLER: Your Honor -- I'm sorry.

13 THE COURT: Other declaratory judgments have had
14 extensive history of patent litigation with their adversaries
15 and here we're only talking about two lawsuits in three years,
16 right?

17 MR. MILLER: That's correct, Your Honor. But I say
18 from that, I look at the totality of the circumstances. I look
19 at, as stated in our declaratory judgment action, these are --
20 the back-and-forth has been going on for quite some time.

21 So it is not just the -- we're not looking at the
22 litigation history of Lancium by itself. We're looking at the
23 litigation history of Lancium, in addition to the letter that
24 was provided to him from litigation counsel, in addition to the
25 threat of his customers somehow potentially infringing the

1 Lancium patents that were stated in the meeting in November.

2 THE COURT: And *Innovative Therapies* case, the Federal
3 Circuit said, quote, "Prior litigation is a circumstance to be
4 considered in assessing the totality of the circumstances," end
03:45PM 5 quote.

6 Infringement suits against other parties do not
7 establish declaratory judgment jurisdiction unless there's some
8 additional suit, threatening act, directed towards the
9 declaratory judgment plaintiff.

03:45PM 10 I just don't think 2020 and 2020 suits are
11 sufficient.

12 And there's a statement that Foreman could be
13 infringing. The Federal Circuit in the same case said that
14 informal conversations where a patentee has not seen and
03:45PM 15 evaluated plaintiff's product for infringement do not
16 constitute a threat.

17 I think if we bring each one of these down,
18 they're all, I think, insufficient. The totality might be
19 sufficient, but Lancium's letter to OBM identified the patent
03:46PM 20 in OBM's product line. It doesn't really -- it didn't impose a
21 response deadline or included detailed infringement analysis or
22 use more aggressive language than that, did it?

23 MR. MILLER: The letter -- I point you, again,
24 Your Honor, to the *HP versus Acceleron* case. The letter was
03:46PM 25 drafted in a way where the letter asked the client to ask our

1 client -- if they said, hey, I understand my client -- quote,
2 "I understand my client has attempted to reach out to you
3 numerous times to discuss your software, but you have not
4 responded," end quote.

03:46PM

5 And the letter asked for my client to reach out
6 to Mr. Rock. And when my client reached out to Mr. Rock,
7 Lancium -- they delayed discussions afterwards.

03:47PM

8 And after a month -- after a month of delay and
9 during that time Mr. Lawrence, my client, again, asked for them
10 to provide terms, they delayed more and then we ended up
11 having -- Womble -- we ended up having to send a letter on our
12 own a month later that stated that we did not infringe -- our
13 client did not infringe.

03:47PM

14 The next day or a few days thereafter, Lancium
15 did have another meeting with my client. And during that
16 meeting, they stated that again they didn't want -- they didn't
17 want to have to -- I'm trying to get the exact quote from
18 here -- but they were trying to avoid litigation for both
19 parties.

03:48PM

20 THE COURT: Lancium has been quiet for a while.
21 Anything you want to add? Lancium, is there anything you would
22 like to add?

03:48PM

23 MR. LEAVELL: Yes. Thank you, Your Honor. Just very
24 briefly, the *HP* case that they rely on heavily, the patent
25 owner in that case was a nonpracticing entity -- an entity who

1 solely existed for suing for patent infringement, had no other
2 business and that's all they did.

3 And their letter that they sent in the *HP* case
4 demanded a response in two weeks and had a very detailed
03:48PM 5 analysis of how the infringement occurred.

6 That's a very different letter. That's very
7 different circumstances than the situation here where Lancium
8 is not a patent troll, they're not a nonpracticing entity,
9 they're not in the business of suing people. They're in the
03:48PM 10 business of controlling data centers.

11 You're correct that the two prior suits -- two
12 suits in three years is not a lot; but if you look even deeper,
13 they're very different defendants, very different situations,
14 where there were numerous letters that Lancium sent with
03:49PM 15 detailed allegations that express an explicit allegation of
16 infringement and those letters were ignored for months before
17 Lancium had no choice but to sue those defendants.

18 Here, Lancium sent a letter without any threat,
19 without any allegation, with no analysis of infringement, no
03:49PM 20 deadline for a response, and an express invitation to continue
21 the collaboration discussions.

22 A month later -- it took OBM one month to respond
23 to that letter and say they had no intention of infringing our
24 patent. That was their formal position. And then they sued
03:49PM 25 two weeks later. It took them a month to respond to our

1 letter. They sent a letter, and then two weeks later filed
2 their lawsuit.

3 And without ever even -- all this concern, all
4 this fear -- I don't mean to be -- I don't mean to joke,
03:50PM 5 Your Honor; and this isn't really a joke, but it makes me think
6 of, you know, a couple that's just not communicating.

7 If OBM had these concerns and they were worried
8 about litigation threats, they could have said something and
9 Lancium could have explained exactly what they're thinking
03:50PM 10 which is no, no, no. We want to collaborate. Look at this
11 opportunity. They never mentioned this to Lancium and to allow
12 them to run to Court and drag Lancium into court against its
13 will to spend perhaps millions of dollars to litigate a patent,
14 that Lancium had no intention of enforcing or filing a lawsuit
03:50PM 15 at this time is just -- because OBM couldn't speak up and say,
16 hey, what is this? What do you mean? Is there an issue? Are
17 we going to partner, or are you going to sue us?

18 That's all they had to do is open a dialogue, and
19 they didn't. It's a lack of communication, it's unreasonable,
03:51PM 20 and there's nothing that Lancium did under the totality of the
21 circumstances, under the controlling law can support the
22 jurisdiction.

23 And then finally I'll just mention that there is
24 a discretionary element. I don't think it's a close case,
03:51PM 25 Your Honor; but if it is a close case, then the Court should

1 exercise its discretion because what the Court needs to
2 incentivize parties in this situation to do is to communicate
3 and work out these issues, not run to court. It's clear from
4 Lancium's point of view -- and what looks like to Lancium is
03:51PM 5 OBM is on a mission to promote itself as some sort of
6 anti-patent savior and they've got funding behind them.
7 They've got petroleum companies that are paying for them to
8 challenge patents and Lancium patents and they want to position
9 themselves in the industry as some sort of white hat savior
03:52PM 10 against patents.

11 Well, patents are important and they go back to
12 the constitution. And the balance that the constitution and
13 the patent laws strike is that the monopoly granted by patents
14 is to strike a balance to encourage that innovation and to
03:52PM 15 encourage research and development. That's what Lancium has
16 done and this sort of trickery with the ongoing promises, the
17 discussions and promises of meetings only to file suit and pull
18 that under the rug is not something that should be encouraged
19 by the courts.

03:52PM 20 THE COURT: Lancium says, "We're both trying to avoid
21 litigation." That doesn't seem threatening.

22 You both make good arguments and I can tell
23 you're both very experienced in the field, but I'm afraid I
24 just don't see the predicate here for federal jurisdiction.

03:53PM 25 And it does seem like y'all have the potential to

1 resolve whatever your differences are. With lawyers as skilled
2 as you guys and I'm sure possessed of substantial drafting
3 experience, I think you could work it out; but I'm going to
4 have to grant the motion to dismiss.

03:53PM 5 Thank you all very much.

6 (The proceedings were adjourned.)

7 * * * *

8 REPORTER'S CERTIFICATE

9 I, Lanie M. Smith, CSR, RMR, CRR, Official
10 Court Reporter, United States District Court, Southern District
11 of Texas, do hereby certify that the foregoing is a true and
12 correct transcript, to the best of my ability and
13 understanding, from the record of the proceedings in the
14 above-entitled and numbered matter.

15
16
17
18
19
20
21
22
23
24
25
/s/ Lanie M. Smith
Official Court Reporter

/	14:1, 14:5, 14:6, 14:13, 14:14, 14:18, 14:19, 14:24, 14:25, 15:5, 15:14, 16:10	Andrew ^[1] - 3:9 another ^[1] - 12:15 answer ^[1] - 3:22
/s ^[1] - 16:13	ability ^[1] - 16:10 about ^[9] - 4:25, 6:10, 6:19, 6:20, 6:23, 6:24, 9:16, 10:15, 14:8	ANTHONY ^[1] - 2:5 anti ^[1] - 15:6 anti-patent ^[1] - 15:6
1	above ^[1] - 16:11 above-entitled ^[1] - 16:11	any ^[6] - 3:22, 4:13, 6:6, 7:1, 13:18, 13:19
12 th ^[1] - 7:25 14 ^[1] - 1:7 17 th ^[1] - 1:15 18 ^[1] - 5:1	absolutely ^[1] - 4:14 Acceleron ^[2] - 8:24, 11:24 act ^[1] - 11:8 action ^[2] - 7:12, 10:19 adamant ^[1] - 8:1 add ^[3] - 3:19, 12:21, 12:22 addition ^[2] - 10:23, 10:24 additional ^[1] - 11:8 adjourned ^[1] - 16:6 admit ^[1] - 7:6 admits ^[1] - 5:14 adversaries ^[1] - 10:14 afraid ^[1] - 15:23 after ^[6] - 8:5, 8:7, 8:11, 12:8 afternoon ^[4] - 3:2, 3:6, 3:12, 7:10 afterwards ^[1] - 12:7 again ^[5] - 7:10, 9:3, 11:23, 12:9, 12:16 against ^[4] - 10:7, 11:6, 14:12, 15:10 aggressive ^[1] - 11:22 agree ^[1] - 4:4 agreeing ^[1] - 5:15 agreement ^[2] - 5:11, 6:12 agreements ^[3] - 5:17, 6:19 all ^[10] - 3:10, 3:16, 4:1, 4:14, 11:18, 13:2, 14:3, 14:18, 16:5 allegation ^[4] - 4:12, 6:13, 13:15, 13:19 allegations ^[3] - 6:11, 10:5, 13:15 alleged ^[1] - 7:14 alleging ^[1] - 7:15 allow ^[1] - 14:11 also ^[3] - 3:8, 3:14, 7:13 an ^[9] - 4:8, 4:15, 4:21, 4:22, 8:20, 12:25, 13:15, 13:20, 14:16 analysis ^[4] - 4:7, 11:21, 13:5, 13:19 And ^[1] - 7:5 and ^[110] - 3:2, 3:8, 3:9, 3:13, 3:14, 4:1, 4:4, 4:6, 4:7, 4:10, 4:14, 4:18, 4:22, 4:24, 5:3, 5:4, 5:6, 5:8, 5:11, 5:13, 5:16, 5:18, 5:19, 5:21, 5:22, 5:25, 6:1, 6:2, 6:5, 6:6, 6:7, 6:11, 6:15, 6:21, 6:23, 6:24, 7:6, 7:13, 7:16, 7:17, 7:19, 8:1, 8:3, 8:4, 8:5, 8:7, 8:11, 8:12, 8:13, 8:18, 8:20, 8:22, 9:1, 9:5, 9:9, 9:10, 9:14, 9:17, 10:1, 10:15, 10:20, 11:2, 11:10, 11:12, 11:14, 12:5, 12:6, 12:8, 12:10, 12:15, 13:2, 13:3, 13:4, 13:16, 13:20, 13:23, 13:24, 14:1, 14:3, 14:5, 14:7, 14:8, 14:11, 14:12, 14:15, 14:18, 14:20, 14:23, 15:3, 15:4, 15:6, 15:8, 15:11, 15:12, 15:14, 15:15, 15:16, 15:17, 15:22, 15:25, 16:2, 16:10, 16:10, 16:11 ANDREW ^[1] - 1:20	anything ^[2] - 12:21 appearances ^[1] - 3:4 APPEARANCES ^[1] - 1:13 April ^[1] - 8:14 are ^[18] - 4:17, 4:21, 5:22, 6:4, 6:7, 6:8, 6:10, 7:3, 7:4, 7:19, 9:14, 10:19, 11:10, 14:16, 14:17, 15:7, 15:11, 16:1 argued ^[1] - 6:5 arguments ^[1] - 15:22 arrangement ^[1] - 7:1 arrangements ^[1] - 4:20 as ^[13] - 3:15, 4:1, 5:16, 7:12, 8:8, 9:5, 9:18, 9:20, 10:19, 15:5, 15:9, 16:1, 16:2 ask ^[1] - 11:25 asked ^[3] - 11:25, 12:5, 12:9 assessing ^[1] - 11:4 assistance ^[1] - 6:16 assume ^[1] - 3:18 at ^[14] - 4:13, 4:14, 5:1, 5:2, 6:14, 7:19, 8:7, 9:1, 10:18, 10:19, 10:21, 10:22, 14:10, 14:15 Atlanta ^[1] - 1:16 attachment ^[1] - 8:21 attempted ^[1] - 12:2 attorney ^[1] - 8:16 attorneys ^[2] - 8:7, 9:1 avoid ^[2] - 12:18, 15:20
2		
20006 ^[1] - 1:22 2001 ^[1] - 1:21 2020 ^[2] - 11:10 2023 ^[1] - 1:7 2121 ^[1] - 2:6 2400 ^[1] - 1:16 271 ^[1] - 1:15 29601 ^[1] - 1:19		
3		
30363 ^[1] - 1:16 3rd ^[1] - 8:14		
4		
400 ^[2] - 1:19, 1:22 4400 ^[1] - 2:3 4:23-CV-01798 ^[1] - 1:4		
5		
515 ^[1] - 2:11 550 ^[1] - 1:18		
6		
60606-2833 ^[1] - 2:3		
7		
700 ^[1] - 2:6 75201 ^[1] - 2:7 77002 ^[1] - 2:12		
8		
8004 ^[1] - 2:11		
A		
a ^[64] - 3:22, 4:5, 4:7, 4:17, 4:19, 5:4, 5:5, 5:7, 5:8, 5:10, 5:18, 6:2, 6:12, 6:13, 6:20, 7:19, 8:1, 8:14, 8:16, 9:15, 9:18, 9:19, 9:25, 10:2, 10:9, 11:3, 11:12, 11:14, 11:16, 11:20, 11:25, 12:8, 12:11, 12:12, 12:14, 12:20, 12:25, 13:4, 13:6, 13:8, 13:12, 13:18, 13:20, 13:22, 13:25,		B back ^[5] - 5:16, 8:4, 8:24, 10:20, 15:11 back-and-forth ^[2] - 8:4, 10:20 balance ^[2] - 15:12, 15:14 Barnes ^[4] - 2:2, 2:5, 3:13, 3:15 based ^[5] - 4:8, 4:10, 7:16, 7:17, 9:22 basically ^[1] - 8:10 be ^[16] - 3:14, 4:8, 4:18, 5:7, 5:8, 5:23, 5:24, 8:2, 9:17, 9:22, 11:3, 11:12, 11:18, 14:4, 15:18 because ^[3] - 9:12, 14:15, 15:1 become ^[1] - 6:14 been ^[7] - 5:1, 6:12, 7:4, 9:25, 10:8, 10:20, 12:20 BEFORE ^[1] - 1:10 before ^[5] - 5:12, 5:20, 6:22, 7:7, 13:16 beginning ^[1] - 3:4 behalf ^[3] - 3:8, 3:21, 7:11 behind ^[1] - 15:6 being ^[1] - 7:1 belief ^[1] - 9:23 best ^[1] - 16:10

between [3] - 5:6, 7:16, 8:4
Beverina [1] - 3:9
BEVERINA [1] - 1:20
Bond [4] - 1:15, 1:18, 1:21, 3:7
both [5] - 5:5, 12:18, 15:20, 15:22, 15:23
brief [1] - 5:21
briefing [4] - 7:13, 8:22, 8:23, 9:23
briefly [2] - 3:22, 12:24
bring [1] - 11:17
broad [1] - 9:24
Bruce [1] - 3:14
BRUCE [1] - 2:1
burden [1] - 4:2
business [13] - 5:17, 5:19, 5:24, 6:20, 6:21, 7:14, 7:15, 8:15, 9:9, 13:2, 13:9, 13:10
but [15] - 4:17, 6:7, 8:9, 9:3, 10:7, 10:17, 11:19, 12:3, 12:18, 13:12, 13:17, 14:5, 14:25, 15:23, 16:3
by [10] - 1:24, 4:8, 5:5, 5:14, 6:7, 7:4, 7:5, 10:22, 15:13, 15:19

C

C [1] - 3:1
called [3] - 8:6, 8:7
can [3] - 3:18, 14:21, 15:22
can't [2] - 5:23, 5:24
case [12] - 4:5, 5:21, 5:22, 10:10, 11:2, 11:13, 11:24, 12:24, 12:25, 13:3, 14:24, 14:25
cases [4] - 6:4, 6:7, 10:8
cause [1] - 7:1
centers [1] - 13:10
CEO [2] - 5:14, 6:25
certain [1] - 9:2
CERTIFICATE [1] - 16:8
certify [1] - 16:10
challenge [1] - 15:8
Chicago [1] - 2:3
choice [1] - 13:17
Circuit [2] - 11:3, 11:13
circumstance [1] - 11:3
circumstances [6] - 4:12, 7:18, 10:18, 11:4, 13:7, 14:21
cite [1] - 5:21
cited [1] - 6:7
clear [6] - 4:1, 5:23, 6:7, 6:11, 10:8, 15:3
clearly [1] - 4:25
client [15] - 7:20, 9:5, 9:16, 9:19, 9:21, 10:2, 11:25, 12:1, 12:2, 12:5, 12:6, 12:9, 12:13, 12:15
client's [1] - 8:19
close [2] - 14:24, 14:25
CLR [1] - 9:25
collaborate [1] - 14:10
collaborating [1] - 4:23

collaboration [3] - 4:25, 6:1, 13:21
collaborative [3] - 4:20, 5:6, 5:11
comfort [1] - 7:23
communicate [1] - 15:2
communicating [1] - 14:6
communication [1] - 14:19
communications [2] - 5:19, 9:16
Communications [1] - 5:22
companies [4] - 4:21, 9:20, 10:7, 15:7
company [2] - 4:19, 4:22
compare [1] - 9:4
complaint [2] - 4:4, 6:2
computer [1] - 1:25
concern [1] - 14:3
concerns [1] - 14:7
considered [1] - 11:4
constitute [1] - 11:16
constitution [2] - 15:12
contemporaneous [2] - 5:3, 7:3
context [1] - 6:8
continue [4] - 4:25, 5:17, 5:18, 13:20
continuing [1] - 5:23
controlling [2] - 13:10, 14:21
controversy [1] - 4:5
conversation [1] - 8:5
conversations [5] - 8:9, 8:23, 10:1, 11:14
corner [1] - 10:2
corporate [1] - 8:16
correct [3] - 10:17, 13:11, 16:10
could [8] - 5:11, 8:2, 8:19, 9:22, 11:12, 14:8, 14:9, 16:3
couldn't [1] - 14:15
counsel [5] - 3:4, 8:6, 8:17, 10:24
couple [2] - 3:23, 14:6
course [1] - 6:14
Court [10] - 2:9, 2:9, 2:10, 7:20, 14:12, 14:25, 15:1, 16:9, 16:13
court [4] - 6:5, 6:15, 14:12, 15:3
COURT [12] - 1:1, 3:2, 3:10, 3:16, 3:24, 7:8, 7:22, 10:4, 10:13, 11:2, 12:20, 15:20
Court's [2] - 4:6, 6:16
courts [1] - 15:19
covers [1] - 9:24
Craig [1] - 3:14
CRAIG [1] - 2:1
crossroads [1] - 7:19
CRR [2] - 2:9, 16:9
CSR [2] - 2:9, 16:9
customers [3] - 8:2, 9:21, 10:25

D

D [2] - 2:1, 3:1
Dallas [1] - 2:7
Daniel [1] - 3:13
DANIEL [1] - 2:5
data [1] - 13:10

day [2] - 5:12, 12:14
days [4] - 5:12, 5:20, 7:7, 12:14
DC [1] - 1:22
deadline [2] - 11:21, 13:20
deal [1] - 9:9
declaration [4] - 5:15, 8:1, 8:8, 9:6
declarations [1] - 7:5
declaratory [10] - 4:3, 4:7, 4:9, 6:4, 7:12, 10:10, 10:13, 10:19, 11:7, 11:9
deeper [1] - 13:12
defendant [1] - 3:11
DEFENDANT [1] - 2:1
defendant's [1] - 3:17
defendants [2] - 13:13, 13:17
delay [1] - 12:8
delayed [2] - 12:7, 12:10
deliver [1] - 5:25
deliverables [1] - 5:16
Demand [1] - 9:24
demanding [1] - 13:4
Design [1] - 5:22
desire [1] - 4:25
detailed [3] - 11:21, 13:4, 13:15
development [1] - 15:15
dialogue [1] - 14:18
Dickinson [4] - 1:15, 1:18, 1:21, 3:7
did [9] - 6:23, 8:13, 9:21, 11:22, 12:12, 12:13, 12:15, 13:2, 14:20
didn't [4] - 11:20, 12:16, 14:19
differences [1] - 16:1
different [5] - 8:13, 13:6, 13:7, 13:13
directed [1] - 11:8
discretion [1] - 15:1
discretionary [1] - 14:24
discuss [4] - 7:17, 8:15, 9:9, 12:3
discussed [4] - 4:16, 6:20, 7:1, 8:8
discussing [2] - 5:1, 9:15
discussions [17] - 5:17, 5:24, 5:25, 6:3, 6:6, 6:7, 6:9, 6:14, 6:21, 7:6, 7:7, 7:15, 8:2, 9:10, 12:7, 13:21, 15:17
dismiss [3] - 3:18, 3:20, 16:4
dispute [1] - 4:2
DISTRICT [3] - 1:1, 1:1, 1:10
District [4] - 2:10, 2:10, 16:9
DIVISION [1] - 1:2
DJ [1] - 6:2
do [9] - 9:3, 9:7, 9:15, 11:6, 11:15, 14:16, 14:18, 15:2, 16:10
documents [3] - 5:3, 6:18, 7:4
does [2] - 9:7, 15:25
doesn't [4] - 4:1, 9:6, 11:20, 15:21
dollars [1] - 14:13
don't [6] - 3:23, 11:10, 14:4, 14:24, 15:24
done [1] - 15:16
DORITY [1] - 1:17
Dority [1] - 3:9
down [1] - 11:17
drafted [1] - 11:25

drafting [2] - 9:1, 16:2 drag [1] - 14:12 Drive [1] - 2:2 due [1] - 8:22 during [3] - 8:1, 12:9, 12:15	fees [1] - 5:8 few [1] - 12:14 field [2] - 9:13, 15:23 file [2] - 6:1, 15:17 filed [7] - 5:12, 5:14, 5:20, 6:22, 7:7, 10:6, 14:1 filling [1] - 14:14 finally [1] - 14:23 fine [1] - 3:24 first [1] - 4:1 FOR [2] - 1:14, 2:1 for [24] - 3:11, 4:3, 4:7, 4:17, 5:1, 6:6, 6:12, 6:13, 7:20, 8:12, 9:25, 10:9, 10:20, 11:15, 12:5, 12:9, 12:18, 12:20, 13:1, 13:16, 13:20, 15:7, 15:24 foregoing [1] - 16:10 Foreman [3] - 8:18, 9:22, 11:12 formal [1] - 13:24 forth [3] - 4:4, 8:4, 10:20 forward [1] - 7:20 found [1] - 6:5 friendly [1] - 9:17 from [14] - 3:14, 6:2, 7:9, 7:19, 8:14, 8:15, 8:16, 9:11, 9:12, 10:18, 10:24, 12:17, 15:3, 16:11 function [1] - 9:25 funding [1] - 15:6 further [4] - 5:25, 6:6, 7:6 furtherance [1] - 6:1 futile [3] - 6:6, 6:15, 6:21	has [8] - 4:7, 9:19, 10:6, 10:20, 11:14, 12:2, 12:20, 15:15 hat [1] - 15:9 have [20] - 3:8, 5:1, 5:16, 7:4, 7:22, 7:25, 8:10, 9:12, 9:14, 9:23, 9:25, 10:10, 10:13, 12:3, 12:15, 12:17, 14:8, 14:9, 15:25, 16:4 having [3] - 8:8, 12:11 he [15] - 5:15, 5:18, 7:6, 7:25, 8:6, 8:7, 8:9, 8:14, 8:16, 9:6, 9:7, 9:8, 9:13 he's [1] - 8:1 hear [1] - 7:9 HEARD [2] - 1:10, 1:14 Heard [1] - 3:8 HEARING [1] - 1:9 heavily [1] - 12:24 held [1] - 10:11 here [9] - 3:17, 4:10, 6:17, 7:11, 10:15, 12:18, 13:7, 13:18, 15:24 hereby [1] - 16:10 Hewlett [1] - 8:24 Hewlett-Packard [1] - 8:24 hey [3] - 9:2, 12:1, 14:16 him [5] - 7:1, 8:12, 9:11, 9:12, 10:24 his [8] - 5:15, 8:2, 8:6, 8:8, 9:6, 9:21, 10:25 history [5] - 9:19, 10:2, 10:14, 10:22, 10:23 honest [1] - 5:5 Honor [12] - 3:6, 3:7, 3:12, 3:21, 7:10, 9:14, 10:12, 10:17, 11:24, 12:23, 14:5, 14:25 HONORABLE [1] - 1:10 Houston [1] - 2:12 HOUSTON [2] - 1:2, 1:5 how [1] - 13:5 however [1] - 6:16 HP [3] - 11:24, 12:24, 13:3
E	G	I
e [1] - 5:4 E [3] - 1:17, 3:1 e-mails [1] - 5:4 each [1] - 11:17 effort [1] - 5:6 either [1] - 6:15 element [1] - 14:24 Ellison [1] - 3:3 ELLISON [1] - 1:10 encourage [2] - 15:14, 15:15 encouraged [1] - 15:18 encouraging [2] - 5:18, 7:6 end [2] - 11:4, 12:4 ended [2] - 12:10, 12:11 enforcing [1] - 14:14 entirely [1] - 4:11 entirety [1] - 4:12 entitled [2] - 6:15, 16:11 entity [3] - 12:25, 13:8 ERCOT [1] - 9:24 especially [1] - 5:8 establish [2] - 4:2, 11:7 evaluated [1] - 11:15 even [7] - 5:14, 6:25, 7:5, 9:23, 10:1, 13:12, 14:3 ever [1] - 14:3 exact [1] - 12:17 exactly [1] - 14:9 excitement [1] - 6:24 exercise [1] - 15:1 existed [1] - 13:1 experience [1] - 16:3 experienced [1] - 15:23 explained [1] - 14:9 explicit [1] - 13:15 explore [1] - 5:18 express [2] - 13:15, 13:20 extensive [1] - 10:14	G [1] - 3:1 generally [1] - 10:9 genuine [1] - 4:11 Georgia [1] - 1:16 get [2] - 5:16, 12:17 go [2] - 10:4, 15:11 going [13] - 5:7, 6:16, 7:16, 7:17, 7:25, 8:10, 9:6, 9:18, 9:25, 10:20, 14:17, 16:3 good [6] - 3:2, 3:6, 3:12, 7:10, 9:15, 15:22 got [2] - 15:6, 15:7 grant [1] - 16:4 granted [1] - 15:13 great [2] - 3:25, 9:1 Greenville [1] - 1:19 guys [1] - 16:2	I [21] - 3:1, 3:8, 10:10, 10:11, 10:17, 10:18, 11:10, 11:17, 11:18, 11:23, 12:1, 12:2, 14:4, 14:24, 15:22, 15:23, 16:3, 16:9 I'll [2] - 3:22, 14:23 I'm [8] - 7:16, 7:17, 10:10, 10:12, 12:17, 15:23, 16:2, 16:3 I've [1] - 3:18 identified [1] - 11:19 identify [1] - 8:18 if [11] - 3:23, 4:10, 4:18, 5:2, 6:10, 6:14, 11:17, 12:1, 13:12, 14:7, 14:25 ignored [1] - 13:16 ignoring [3] - 9:18, 9:19, 9:20 Illinois [1] - 2:3 immediacy [1] - 4:6 immediate [1] - 4:15 immediately [1] - 8:6 imminent [1] - 4:15
F	H	
face [1] - 4:24 fact [6] - 4:11, 9:16, 9:19, 9:20, 9:21, 9:22 factors [1] - 7:17 facts [2] - 4:8, 7:3 familiar [1] - 10:11 fear [2] - 4:10, 14:4 fears [1] - 4:8 federal [1] - 15:24 Federal [2] - 11:2, 11:13	H [2] - 1:14, 2:1 had [9] - 10:2, 10:13, 13:1, 13:4, 13:17, 13:23, 14:7, 14:14, 14:18 hadn't [1] - 10:7 happen [1] - 9:7 happened [1] - 8:11 happens [1] - 9:5 happy [1] - 3:22	

<p>important [2] - 4:21, 15:11</p> <p>impose [1] - 11:20</p> <p>in [53] - 3:3, 3:19, 4:4, 4:11, 4:16, 5:5, 5:10, 5:14, 5:21, 6:1, 6:8, 6:15, 7:6, 7:12, 7:13, 7:20, 7:24, 8:8, 8:9, 8:18, 8:20, 8:22, 8:23, 8:25, 9:6, 9:8, 9:9, 9:10, 9:12, 9:13, 9:21, 9:25, 10:8, 10:15, 10:19, 10:23, 10:24, 11:1, 11:4, 11:13, 11:20, 11:25, 12:25, 13:3, 13:4, 13:9, 13:12, 15:2, 15:9, 15:23, 16:11</p> <p>INC [1] - 1:4</p> <p>incentivize [1] - 15:2</p> <p>include [1] - 8:20</p> <p>included [1] - 11:21</p> <p>indication [1] - 4:21</p> <p>indicia [1] - 10:9</p> <p>indigestion [1] - 7:2</p> <p>individual [1] - 10:4</p> <p>industry [1] - 15:9</p> <p>informal [1] - 11:14</p> <p>information [1] - 6:1</p> <p>infringe [2] - 12:12, 12:13</p> <p>infringed [1] - 9:3</p> <p>infringement [12] - 4:13, 6:11, 6:13, 10:7, 11:6, 11:15, 11:21, 13:1, 13:5, 13:16, 13:19</p> <p>infringing [5] - 8:3, 9:22, 10:25, 11:13, 13:23</p> <p>innovation [1] - 15:14</p> <p>Innovative [1] - 11:2</p> <p>innovative [1] - 4:22</p> <p>instructions [1] - 9:8</p> <p>insufficient [1] - 11:18</p> <p>intention [2] - 13:23, 14:14</p> <p>interest [1] - 5:5</p> <p>interested [1] - 5:10</p> <p>interesting [1] - 8:25</p> <p>into [2] - 7:5, 14:12</p> <p>invitation [1] - 13:20</p> <p>involved [1] - 5:9</p> <p>involvement [1] - 4:7</p> <p>IP [1] - 8:17</p> <p>is [32] - 3:3, 3:7, 3:12, 4:2, 4:4, 4:16, 5:7, 5:9, 6:15, 7:13, 7:18, 9:5, 10:8, 10:21, 11:3, 12:21, 13:8, 13:12, 14:10, 14:15, 14:16, 14:18, 14:23, 14:25, 15:2, 15:4, 15:5, 15:13, 15:14, 15:18, 16:10</p> <p>isn't [1] - 14:5</p> <p>issue [2] - 4:14, 14:16</p> <p>issues [2] - 7:24, 15:3</p> <p>it [16] - 4:2, 4:11, 5:23, 7:18, 9:20, 10:7, 10:21, 11:20, 11:22, 13:22, 13:25, 14:5, 14:25, 15:25, 16:3</p> <p>it's [6] - 4:1, 6:10, 14:19, 14:24, 15:3</p> <p>its [4] - 4:17, 4:24, 14:12, 15:1</p> <p>itself [2] - 10:22, 15:5</p>	<p>James [1] - 3:9</p> <p>job [1] - 9:15</p> <p>joke [2] - 14:4, 14:5</p> <p>judge [1] - 8:24</p> <p>JUDGE [1] - 1:10</p> <p>judgment [9] - 4:3, 4:7, 4:9, 6:5, 7:12, 10:10, 10:19, 11:7, 11:9</p> <p>judgments [1] - 10:13</p> <p>jurisdiction [4] - 4:3, 11:7, 14:22, 15:24</p> <p>just [8] - 8:23, 10:21, 11:10, 12:23, 14:6, 14:15, 14:23, 15:24</p>	<p>licensing [1] - 6:8</p> <p>like [5] - 3:19, 4:19, 12:22, 15:4, 15:25</p> <p>line [3] - 3:8, 3:14, 11:20</p> <p>litigate [1] - 14:13</p> <p>litigation [13] - 4:14, 4:15, 5:9, 8:16, 8:17, 10:14, 10:22, 10:23, 10:24, 11:3, 12:18, 14:8, 15:21</p> <p>LLC [1] - 1:7</p> <p>LLP [5] - 1:15, 1:18, 1:21, 2:2, 2:5</p> <p>look [4] - 10:18, 13:12, 14:10</p> <p>looking [3] - 4:19, 10:21, 10:22</p> <p>looks [1] - 15:4</p> <p>lot [5] - 4:17, 5:4, 5:7, 13:12</p> <p>lucrative [1] - 4:20</p>
<p>J</p> <p>JAMES [1] - 1:17</p>	<p>K</p> <p>K [1] - 1:21</p> <p>Keith [1] - 3:3</p> <p>KEITH [1] - 1:10</p> <p>key [1] - 3:23</p> <p>kind [1] - 7:23</p> <p>know [2] - 9:6, 14:6</p> <p>L</p> <p>lack [1] - 14:19</p> <p>Lancium [39] - 3:3, 3:21, 4:16, 4:19, 4:24, 5:10, 5:18, 7:13, 8:1, 8:2, 8:3, 8:9, 8:11, 9:7, 9:8, 9:10, 9:15, 10:6, 10:22, 10:23, 11:1, 12:7, 12:14, 12:20, 12:21, 13:7, 13:14, 13:17, 13:18, 14:9, 14:11, 14:12, 14:14, 14:20, 15:4, 15:8, 15:15, 15:20</p> <p>LANCIUM [1] - 1:7</p> <p>Lancium's [4] - 6:25, 8:20, 11:19, 15:4</p> <p>language [1] - 11:22</p> <p>Lanie [3] - 2:9, 16:9, 16:13</p> <p>later [4] - 12:12, 13:22, 13:25, 14:1</p> <p>law [2] - 5:21, 14:21</p> <p>Lawrence [7] - 5:14, 7:5, 7:25, 8:6, 8:8, 8:13, 12:9</p> <p>laws [1] - 15:13</p> <p>lawsuit [8] - 5:8, 5:12, 5:13, 5:20, 6:22, 7:7, 14:2, 14:14</p> <p>lawsuits [3] - 10:7, 10:8, 10:15</p> <p>lawyer [1] - 8:15</p> <p>lawyers [1] - 16:1</p> <p>lawyers' [1] - 5:8</p> <p>leading [1] - 5:13</p> <p>least [1] - 5:1</p> <p>LEAVELL [4] - 2:1, 3:21, 3:25, 12:23</p> <p>Leavell [1] - 3:14</p> <p>less [2] - 4:13, 4:15</p> <p>let [1] - 7:9</p> <p>let's [1] - 10:4</p> <p>letter [22] - 4:16, 4:24, 8:14, 8:16, 8:18, 8:25, 9:1, 9:8, 10:23, 11:19, 11:23, 11:24, 11:25, 12:5, 12:11, 13:3, 13:6, 13:18, 13:23, 14:1</p> <p>letters [2] - 13:14, 13:16</p> <p>license [2] - 6:12, 6:19</p>	<p>M</p> <p>M [3] - 2:9, 16:9, 16:13</p> <p>made [4] - 5:7, 5:8, 10:6, 10:8</p> <p>magic [1] - 9:2</p> <p>mails [1] - 5:4</p> <p>Main [1] - 1:18</p> <p>make [4] - 5:6, 5:11, 5:23, 15:22</p> <p>makes [1] - 14:5</p> <p>market [1] - 10:3</p> <p>matter [2] - 4:3, 16:11</p> <p>me [3] - 3:13, 7:9, 14:5</p> <p>mean [3] - 14:4, 14:16</p> <p>mechanical [1] - 1:24</p> <p>MedImmune [1] - 4:5</p> <p>meet [1] - 5:24</p> <p>meeting [3] - 11:1, 12:15, 12:16</p> <p>meetings [2] - 5:15, 15:17</p> <p>mention [1] - 14:23</p> <p>mentioned [1] - 14:11</p> <p>messages [1] - 5:4</p> <p>might [1] - 11:18</p> <p>Miller [2] - 3:7, 7:11</p> <p>MILLER [7] - 1:14, 3:6, 7:10, 7:24, 10:12, 10:17, 11:23</p> <p>millions [1] - 14:13</p> <p>mind [1] - 3:23</p> <p>mischaracterizing [1] - 7:14</p> <p>mission [1] - 15:5</p> <p>money [4] - 5:6, 5:7, 5:11</p> <p>monopoly [1] - 15:13</p> <p>month [6] - 12:8, 12:12, 13:22, 13:25</p> <p>months [3] - 5:1, 6:12, 13:16</p> <p>more [4] - 5:7, 10:9, 11:22, 12:10</p> <p>motion [3] - 3:17, 3:20, 16:4</p> <p>MOTION [1] - 1:9</p> <p>move [1] - 7:20</p> <p>Mr [9] - 5:14, 7:5, 7:25, 8:6, 8:8, 8:13, 12:6, 12:9</p> <p>MR [17] - 1:14, 1:14, 1:17, 1:20, 2:1, 2:1, 2:5, 3:6, 3:12, 3:21, 3:25, 7:10, 7:24, 10:12, 10:17, 11:23, 12:23</p> <p>much [4] - 4:13, 4:15, 7:8, 16:5</p> <p>multiple [2] - 7:13, 8:12</p>

<p>my [12] - 8:19, 9:5, 9:16, 9:21, 10:2, 12:1, 12:2, 12:5, 12:6, 12:9, 12:15, 16:10</p>	<p>One [1] - 2:2 ongoing [4] - 6:8, 6:22, 7:15, 15:16 only [3] - 5:10, 10:15, 15:17 open [1] - 14:18 opportunity [2] - 6:24, 14:11 or [17] - 4:3, 4:15, 6:8, 6:12, 6:13, 6:19, 6:25, 7:23, 8:12, 9:2, 9:15, 9:16, 11:21, 12:14, 14:14, 14:17 order [1] - 7:20 other [6] - 4:20, 7:9, 9:20, 10:13, 11:6, 13:1 others [1] - 5:22 our [12] - 5:21, 7:13, 7:18, 7:20, 8:22, 8:23, 10:19, 11:25, 12:11, 12:12, 13:23, 13:25 out [9] - 6:2, 8:12, 9:7, 9:8, 12:2, 12:5, 12:6, 15:3, 16:3 over [3] - 6:12, 6:24, 8:7 own [3] - 6:18, 6:25, 12:12 owner [1] - 12:25 owners [1] - 4:17</p>	<p>predicate [1] - 15:24 present [2] - 9:3 Preston [1] - 3:8 PRESTON [1] - 1:14 pretend [1] - 5:23 prevent [1] - 8:10 prevented [1] - 9:12 Prior [1] - 11:3 prior [3] - 8:22, 10:8, 13:11 Proceedings [1] - 1:24 proceedings [2] - 16:6, 16:11 PROCEEDINGS [1] - 1:9 produced [1] - 1:25 product [5] - 8:19, 9:4, 11:15, 11:20 promises [2] - 15:16, 15:17 promising [3] - 5:16, 5:24, 5:25 promote [2] - 4:18, 15:5 proposal [1] - 6:21 proposed [2] - 9:10, 9:11 proud [1] - 4:18 provide [1] - 12:10 provided [2] - 8:1, 10:24 pull [2] - 6:2, 15:17 put [2] - 5:10, 7:4</p>
<p>N</p> <p>N [1] - 3:1 need [3] - 6:6, 7:19, 10:9 needs [1] - 15:1 negotiating [1] - 6:12 never [2] - 6:20, 14:11 next [3] - 9:5, 9:7, 12:14 no [12] - 4:12, 4:14, 6:6, 13:1, 13:17, 13:19, 13:23, 14:10, 14:14 nondisclosure [1] - 5:17 nonpracticing [2] - 12:25, 13:8 North [2] - 2:2, 2:6 not [27] - 4:8, 5:2, 6:16, 6:18, 6:21, 7:1, 7:22, 8:13, 8:14, 8:15, 9:1, 10:8, 10:21, 11:6, 11:14, 11:15, 12:3, 12:12, 12:13, 13:8, 13:9, 13:12, 14:6, 15:3, 15:18 nothing [1] - 14:20 November [3] - 7:24, 7:25, 11:1 now [1] - 8:10 number [1] - 10:1 numbered [1] - 16:11 numerous [2] - 12:3, 13:14 NW [2] - 1:15, 1:21</p>	<p>P</p> <p>P [2] - 1:10, 3:1 Packard [1] - 8:24 papers [3] - 3:18, 3:19, 4:10 particular [1] - 4:13 parties [10] - 5:1, 5:6, 5:11, 6:10, 6:23, 7:16, 8:4, 11:6, 12:19, 15:2 parties' [1] - 6:18 partner [1] - 14:17 party [1] - 6:15 patent [18] - 4:13, 4:17, 6:13, 8:21, 9:3, 9:4, 9:20, 9:24, 10:14, 11:19, 12:24, 13:1, 13:8, 13:24, 14:13, 15:6, 15:13 patentee [1] - 11:14 patents [12] - 4:17, 4:18, 4:21, 8:3, 8:20, 11:1, 15:8, 15:10, 15:11, 15:13 paying [1] - 15:7 Pearl [1] - 2:6 people [1] - 13:9 per [1] - 9:8 perhaps [1] - 14:13 petroleum [1] - 15:7 place [2] - 5:20, 7:15 PLAINTIFF [1] - 1:14 plaintiff [2] - 6:5, 11:9 plaintiff's [1] - 11:15 please [1] - 3:5 point [6] - 5:2, 6:14, 8:23, 10:6, 11:23, 15:4 points [2] - 3:23, 7:22 position [3] - 7:18, 13:24, 15:8 possessed [1] - 16:2 potential [1] - 15:25 potentially [1] - 10:25 practice [1] - 9:13 practicing [1] - 9:12</p>	<p>Q</p> <p>questions [1] - 3:22 quiet [1] - 12:20 quite [1] - 10:20 quote [5] - 11:3, 11:5, 12:1, 12:4, 12:17</p>
<p>O</p> <p>O [1] - 3:1 objective [4] - 4:8, 5:3, 7:3, 7:17 OBM [12] - 1:4, 3:3, 3:5, 3:8, 4:1, 6:8, 7:11, 11:19, 13:22, 14:7, 14:15, 15:5 OBM's [6] - 4:2, 4:10, 5:14, 6:25, 7:12, 11:20 occasions [1] - 8:13 occurred [1] - 13:5 of [70] - 2:10, 3:4, 3:7, 3:8, 3:10, 3:16, 3:21, 3:23, 4:1, 4:5, 4:12, 4:13, 4:14, 4:15, 4:17, 4:18, 4:22, 5:4, 6:1, 6:8, 6:11, 6:14, 6:25, 7:11, 7:18, 7:19, 7:23, 7:24, 8:3, 8:22, 9:9, 9:15, 9:18, 9:19, 9:24, 10:1, 10:2, 10:9, 10:14, 10:18, 10:22, 10:23, 10:25, 11:4, 11:17, 12:8, 13:5, 13:9, 13:10, 13:15, 13:19, 13:23, 14:6, 14:13, 14:14, 14:19, 14:20, 15:4, 15:5, 15:9, 15:16, 15:17, 16:2, 16:10, 16:10, 16:11 OF [2] - 1:1, 1:9 Official [4] - 2:9, 2:9, 16:9, 16:13 okay [2] - 3:17, 7:8 on [25] - 3:2, 3:7, 3:8, 3:13, 3:17, 3:19, 3:21, 4:8, 4:10, 4:24, 6:17, 7:11, 7:16, 7:17, 7:25, 8:10, 8:13, 8:22, 9:18, 9:23, 9:25, 10:20, 12:11, 12:24, 15:5 once [1] - 5:8 one [6] - 4:16, 7:24, 10:9, 10:10, 11:17, 13:22</p>	<p>R</p> <p>R [2] - 1:14, 3:1 range [1] - 9:24 Ratain [1] - 3:14 RATAIN [1] - 2:1 reach [2] - 12:2, 12:5 reached [4] - 7:22, 7:23, 8:12, 12:6 reaches [2] - 9:7, 9:8 read [1] - 3:18 reality [1] - 4:6 really [4] - 9:1, 9:15, 11:20, 14:5 reasons [1] - 4:17 receives [2] - 8:14, 8:16 record [3] - 3:3, 7:5, 16:11 recorded [1] - 1:24 reiterated [1] - 7:13 relate [1] - 8:20 relates [1] - 9:20 relationship [1] - 5:19 rely [1] - 12:24 Reporter [4] - 2:9, 2:9, 16:9, 16:13 REPORTER'S [1] - 16:8 requires [1] - 4:5 research [1] - 15:15 resolution [2] - 7:19, 7:22</p>	

resolve ^[1] - 16:1
respectful ^[1] - 9:17
respond ^[3] - 8:13, 13:22, 13:25
responded ^[1] - 12:4
Response ^[1] - 9:24
response ^[3] - 11:21, 13:4, 13:20
right ^[5] - 5:12, 5:20, 7:7, 8:10, 10:16
RMR ^[2] - 2:9, 16:9
rock ^[2] - 12:6
RODNEY ^[1] - 1:14
Rodney ^[2] - 3:7, 7:11
Room ^[1] - 2:11
rug ^[2] - 6:2, 15:18
run ^[3] - 6:15, 14:12, 15:3
Rusk ^[1] - 2:11

S

S ^[1] - 3:1
safely ^[1] - 7:20
said ^[4] - 11:3, 11:13, 12:1, 14:8
same ^[1] - 11:13
savior ^[2] - 15:6, 15:9
say ^[4] - 8:19, 10:17, 13:23, 14:15
says ^[2] - 6:25, 15:20
SC ^[1] - 1:19
secure ^[1] - 4:19
see ^[1] - 15:24
seek ^[1] - 6:16
seem ^[2] - 15:21, 15:25
seen ^[1] - 11:14
send ^[1] - 12:11
sent ^[5] - 4:24, 13:3, 13:14, 13:18, 14:1
SEPTEMBER ^[1] - 1:7
set ^[1] - 4:4
settlement ^[3] - 6:8, 6:13, 6:19
severity ^[1] - 9:18
should ^[2] - 14:25, 15:18
show ^[2] - 5:5, 6:18
shown ^[1] - 7:4
side ^[1] - 7:9
sides ^[1] - 5:5
simply ^[1] - 5:10
situation ^[2] - 13:7, 15:2
situations ^[1] - 13:13
skilled ^[1] - 16:1
small ^[3] - 4:19, 4:20, 9:16
Smith ^[3] - 2:9, 16:9, 16:13
so ^[4] - 7:24, 9:7, 10:3, 10:21
software ^[3] - 8:19, 10:7, 12:3
solely ^[1] - 13:1
some ^[9] - 6:14, 7:19, 7:23, 8:15, 9:9, 10:20, 11:7, 15:5, 15:9
somehow ^[4] - 9:17, 9:24, 10:1, 10:25
something ^[2] - 14:8, 15:18
sorry ^[1] - 10:12
sort ^[3] - 15:5, 15:9, 15:16
South ^[2] - 1:18, 1:22
southern ^[1] - 2:10

Southern ^[1] - 16:9
SOUTHERN ^[1] - 1:1
speak ^[1] - 14:15
specifically ^[1] - 9:2
spend ^[1] - 14:13
standard ^[1] - 4:4
standards ^[1] - 9:25
start ^[1] - 8:3
stated ^[7] - 7:12, 8:2, 9:6, 10:19, 11:1, 12:12, 12:16
statement ^[1] - 11:12
States ^[2] - 2:10, 16:9
STATES ^[2] - 1:1, 1:10
stating ^[1] - 9:2
stenography ^[1] - 1:24
step ^[1] - 3:22
Street ^[4] - 1:15, 1:18, 1:21, 2:6
strike ^[2] - 15:13, 15:14
subject ^[1] - 4:3
subjective ^[1] - 4:8
submitted ^[1] - 5:5
substantial ^[2] - 4:5, 16:2
such ^[1] - 5:16
sue ^[2] - 13:17, 14:17
sued ^[1] - 13:24
sufficient ^[3] - 4:6, 11:11, 11:19
suing ^[3] - 9:19, 13:1, 13:9
suit ^[3] - 10:10, 11:8, 15:17
Suite ^[5] - 1:16, 1:19, 1:22, 2:3, 2:6
suits ^[4] - 11:6, 11:10, 13:11, 13:12
support ^[1] - 14:21
sure ^[1] - 16:2
surprise ^[1] - 5:14

T

take ^[1] - 3:4
taking ^[1] - 5:19
talking ^[7] - 6:10, 6:19, 6:20, 6:23, 6:24, 9:15, 10:15
talks ^[1] - 4:25
tell ^[2] - 9:21, 15:22
telling ^[1] - 10:9
terms ^[7] - 6:13, 8:15, 9:10, 9:11, 9:12, 12:10
Test ^[1] - 5:22
Texas ^[5] - 2:7, 2:10, 2:12, 9:25, 16:10
TEXAS ^[2] - 1:1, 1:5
text ^[1] - 5:4
than ^[3] - 5:7, 11:22, 13:7
thank ^[4] - 3:6, 7:8, 12:23, 16:5
that ^[80] - 4:2, 4:7, 4:21, 4:22, 4:24, 5:1, 5:2, 5:15, 5:22, 5:23, 6:1, 6:4, 6:5, 6:10, 6:13, 6:25, 7:1, 7:4, 7:6, 7:15, 7:17, 7:18, 7:25, 8:1, 8:2, 8:3, 8:5, 8:7, 8:18, 8:19, 8:25, 9:10, 9:13, 9:16, 9:18, 9:19, 9:21, 9:22, 9:23, 9:25, 10:2, 10:6, 10:8, 10:11, 10:18, 10:23, 11:1, 11:12, 11:13, 11:22, 12:9, 12:12, 12:15, 12:16,

12:24, 12:25, 13:3, 13:11, 13:14, 13:15, 13:23, 13:24, 14:14, 14:20, 14:23, 15:7, 15:12, 15:13, 15:14, 15:18, 15:21, 16:10
that's ^[12] - 3:24, 4:19, 6:16, 7:24, 9:14, 10:17, 13:2, 13:6, 14:6, 14:18, 15:15
THE ^[14] - 1:10, 1:14, 2:1, 3:2, 3:10, 3:16, 3:24, 7:8, 7:22, 10:4, 10:13, 11:2, 12:20, 15:20
the ^[140] - 3:2, 3:8, 3:13, 3:18, 3:19, 4:4, 4:6, 4:11, 4:12, 4:13, 4:24, 4:25, 5:1, 5:3, 5:6, 5:11, 5:12, 5:13, 5:17, 5:20, 5:21, 6:2, 6:4, 6:5, 6:7, 6:8, 6:16, 6:18, 6:22, 6:24, 6:25, 7:3, 7:4, 7:5, 7:7, 7:9, 7:14, 7:16, 7:17, 7:18, 7:20, 7:24, 7:25, 8:2, 8:3, 8:4, 8:14, 8:18, 8:21, 8:23, 8:25, 9:1, 9:3, 9:4, 9:8, 9:13, 9:16, 9:18, 9:19, 9:20, 9:22, 10:6, 10:8, 10:9, 10:18, 10:20, 10:21, 10:22, 10:23, 10:24, 10:25, 11:1, 11:2, 11:4, 11:8, 11:13, 11:18, 11:19, 11:23, 11:24, 11:25, 12:5, 12:14, 12:17, 12:24, 13:3, 13:5, 13:7, 13:9, 13:11, 13:21, 14:20, 14:21, 14:25, 15:1, 15:9, 15:12, 15:13, 15:16, 15:18, 15:19, 15:23, 15:24, 15:25, 16:4, 16:10, 16:10, 16:11
The ^[1] - 16:6
their ^[12] - 4:3, 4:10, 4:18, 6:23, 9:19, 9:23, 10:14, 13:3, 13:24, 14:2
them ^[5] - 12:9, 13:25, 14:12, 15:6, 15:7
themselves ^[2] - 7:4, 15:9
then ^[10] - 6:1, 6:14, 6:15, 8:14, 8:20, 12:10, 13:24, 14:1, 14:23, 14:25
Therapies ^[1] - 11:2
there ^[12] - 4:12, 4:14, 4:16, 4:17, 5:7, 5:22, 6:4, 6:6, 12:21, 13:14, 14:16, 14:23
there's ^[6] - 4:2, 5:4, 5:21, 11:7, 11:12, 14:20
thereafter ^[1] - 12:14
these ^[4] - 10:19, 11:17, 14:7, 15:3
they ^[37] - 6:18, 6:20, 6:21, 6:23, 6:24, 8:18, 8:19, 8:20, 9:3, 9:4, 9:11, 9:15, 9:17, 9:21, 9:23, 10:1, 12:1, 12:7, 12:10, 12:16, 12:18, 12:24, 13:2, 13:3, 13:23, 13:24, 14:1, 14:7, 14:8, 14:11, 14:18, 14:19, 15:8, 15:11
they're ^[8] - 4:21, 7:15, 11:18, 13:8, 13:9, 13:13, 14:9
they've ^[4] - 6:11, 10:2, 15:6, 15:7
think ^[7] - 10:10, 11:10, 11:17, 11:18, 14:5, 14:24, 16:3
thinking ^[1] - 14:9
this ^[15] - 3:3, 3:7, 3:12, 9:20, 9:23, 9:24, 14:3, 14:4, 14:5, 14:10, 14:11, 14:15, 14:16, 15:2, 15:16
Thornburg ^[4] - 2:2, 2:5, 3:13, 3:15
those ^[14] - 5:19, 5:25, 6:2, 6:5, 6:14,

<p>6:20, 6:21, 7:3, 8:9, 9:9, 9:10, 9:12, 13:16, 13:17</p> <p>threat [5] - 4:14, 4:15, 10:25, 11:16, 13:18</p> <p>threatening [2] - 11:8, 15:21</p> <p>threats [1] - 14:8</p> <p>three [3] - 8:12, 10:15, 13:12</p> <p>through [5] - 3:22, 5:8, 7:16, 10:1, 10:4</p> <p>time [3] - 10:20, 12:9, 14:15</p> <p>times [3] - 7:13, 8:12, 12:3</p> <p>to [112] - 3:10, 3:16, 3:17, 3:19, 3:20, 3:22, 4:2, 4:6, 4:8, 4:18, 4:19, 4:25, 5:6, 5:7, 5:12, 5:13, 5:15, 5:16, 5:17, 5:18, 5:20, 5:23, 5:24, 5:25, 6:15, 7:7, 7:14, 7:17, 7:20, 8:10, 8:12, 8:15, 8:20, 8:22, 8:23, 8:24, 9:4, 9:6, 9:7, 9:8, 9:9, 9:13, 9:17, 9:20, 10:2, 10:23, 10:24, 11:3, 11:19, 11:24, 11:25, 12:2, 12:3, 12:5, 12:6, 12:10, 12:11, 12:17, 12:18, 12:21, 12:22, 13:17, 13:20, 13:22, 13:23, 13:25, 14:4, 14:10, 14:11, 14:12, 14:13, 14:17, 14:18, 15:1, 15:2, 15:3, 15:4, 15:5, 15:7, 15:8, 15:11, 15:14, 15:17, 15:20, 15:25, 16:3, 16:4, 16:10</p> <p>too [1] - 3:16</p> <p>took [3] - 7:15, 13:22, 13:25</p> <p>top [1] - 8:22</p> <p>totality [5] - 7:18, 10:18, 11:4, 11:18, 14:20</p> <p>towards [1] - 11:8</p> <p>transcript [2] - 1:25, 16:10</p> <p>TRANSCRIPT [1] - 1:9</p> <p>trickery [1] - 15:16</p> <p>tries [2] - 9:16, 9:17</p> <p>troll [1] - 13:8</p> <p>true [3] - 6:10, 8:3, 16:10</p> <p>truly [1] - 7:18</p> <p>try [1] - 9:9</p> <p>trying [5] - 8:10, 10:2, 12:17, 12:18, 15:20</p> <p>two [14] - 5:2, 5:12, 5:13, 5:20, 6:10, 8:4, 8:12, 10:6, 10:15, 13:4, 13:11, 13:25, 14:1</p> <p>type [3] - 6:25, 7:19, 9:9</p>	<p>us [3] - 7:14, 8:7, 14:17</p> <p>use [2] - 9:17, 11:22</p> <p>using [2] - 9:2, 9:22</p>	<p>13:14, 13:19, 15:16, 16:1</p> <p>without [3] - 13:18, 13:19, 14:3</p> <p>Womble [6] - 1:15, 1:18, 1:21, 3:7, 8:7, 12:11</p> <p>words [1] - 9:2</p> <p>work [2] - 15:3, 16:3</p> <p>worried [2] - 9:5, 14:7</p> <p>worthy [1] - 4:22</p> <p>would [4] - 3:19, 7:1, 9:12, 12:21</p>
	V	Y
	<p>Valenzuela [1] - 3:13</p> <p>VALENZUELA [2] - 2:5, 3:12</p> <p>versus [3] - 3:3, 8:24, 11:24</p> <p>very [12] - 4:24, 5:23, 7:8, 8:25, 12:23, 13:4, 13:6, 13:13, 15:23, 16:5</p> <p>via [1] - 1:25</p> <p>view [1] - 15:4</p> <p>VS [1] - 1:5</p>	<p>y'all [1] - 15:25</p> <p>years [4] - 5:2, 10:1, 10:15, 13:12</p> <p>yes [2] - 6:14, 12:23</p> <p>you [26] - 3:6, 3:10, 3:16, 3:18, 3:19, 3:23, 5:23, 5:24, 7:8, 7:22, 9:2, 10:6, 11:23, 12:2, 12:3, 12:21, 12:23, 13:12, 14:6, 14:16, 14:17, 15:22, 16:2, 16:3, 16:5</p> <p>you're [5] - 4:19, 4:22, 13:11, 15:23</p> <p>Your [12] - 3:6, 3:7, 3:12, 3:21, 7:10, 9:14, 10:12, 10:17, 11:24, 12:23, 14:5, 14:25</p> <p>your [4] - 3:20, 10:4, 12:3, 16:1</p>
	W	
	<p>Wacker [1] - 2:2</p> <p>want [5] - 12:16, 12:17, 12:21, 14:10, 15:8</p> <p>wanted [2] - 8:23, 9:13</p> <p>wants [1] - 8:15</p> <p>warrant [1] - 4:6</p> <p>was [26] - 4:11, 4:12, 4:14, 5:7, 5:10, 5:12, 5:14, 5:15, 5:18, 5:20, 6:6, 6:16, 6:22, 7:1, 7:6, 7:7, 8:3, 8:8, 8:9, 10:24, 11:24, 12:25, 13:24</p> <p>Washington [1] - 1:22</p> <p>way [2] - 9:18, 11:25</p> <p>we [15] - 4:4, 5:21, 7:18, 7:19, 7:25, 8:10, 8:23, 9:14, 11:17, 12:10, 12:11, 12:12, 14:10, 14:17</p> <p>we'll [1] - 3:4</p> <p>We're [1] - 15:20</p> <p>we're [6] - 3:2, 3:17, 3:21, 10:15, 10:21, 10:22</p> <p>week [2] - 5:13, 6:22</p> <p>weekends [1] - 6:23</p> <p>weeks [5] - 5:13, 6:12, 13:4, 13:25, 14:1</p> <p>welcome [3] - 3:2, 3:10, 3:16</p> <p>well [3] - 3:15, 4:1, 15:11</p> <p>were [19] - 5:19, 6:6, 6:18, 6:20, 6:21, 6:22, 6:23, 6:24, 9:1, 9:11, 9:22, 11:1, 12:18, 13:14, 13:16, 14:7, 16:6</p> <p>what [14] - 6:16, 6:23, 7:22, 8:4, 8:10, 8:11, 9:5, 9:7, 14:9, 14:16, 15:1, 15:4, 15:15</p> <p>what's [4] - 3:19, 8:25, 9:6, 9:18</p> <p>whatever [1] - 16:1</p> <p>when [1] - 12:6</p> <p>where [8] - 5:11, 6:4, 9:14, 10:11, 11:14, 11:25, 13:7, 13:14</p> <p>which [4] - 4:5, 4:16, 5:13, 14:10</p> <p>while [1] - 12:20</p> <p>white [1] - 15:9</p> <p>who [3] - 8:15, 9:21, 12:25</p> <p>will [2] - 3:14, 14:13</p> <p>with [16] - 3:4, 3:13, 4:20, 4:23, 6:11, 7:21, 8:9, 10:2, 10:11, 10:14, 12:15,</p>	
U		
<p>under [5] - 4:11, 6:2, 14:20, 14:21, 15:18</p> <p>understand [2] - 12:1, 12:2</p> <p>understanding [1] - 16:11</p> <p>United [2] - 2:10, 16:9</p> <p>UNITED [2] - 1:1, 1:10</p> <p>unless [1] - 11:7</p> <p>unreasonable [4] - 4:9, 4:11, 9:11, 14:19</p> <p>up [7] - 5:12, 5:13, 5:20, 7:7, 12:10, 12:11, 14:15</p> <p>US [3] - 1:15, 1:18, 1:21</p>		